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Arizona Corporation Commission
BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

JUN 29 1999

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
STAR DATA SERVICES, L.L.C. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RETAIL ELECTRIC SERVICES AS AN
ELECTRIC SERVICE PROVIDER PURSUANT TO
A.A.C. R14-2-1601 *ET SEQ.*

DOCKET NO. E-03671A-98-0722

DECISION NO. 61796

OPINION AND ORDER

DATE OF HEARING: April 7, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Teena Wolfe

APPEARANCES: Mr. Sanford J. Asman, on behalf of Applicant Star Data Services, L.L.C.;

Mr. Jeffrey Guldner, SNELL & WILMER, LLP, on behalf of Arizona Public Service Company;

Mr. Michael M. Grant, GALLAGHER & KENNEDY, on behalf of Arizona Electric Power Cooperative, Graham County Electric Cooperative, Duncan Valley Electric Cooperative, Trico Electric Cooperative, Inc., (for Russell Jones) and Sulphur Springs Valley Electric Cooperative, Inc. (for Christopher Hitchcock); and

Ms. Janice M. Alward, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On December 18, 1998, Star Data Services, L.L.C. ("SDS") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate Of Convenience And Necessity ("CC&N" or "Certificate") to provide competitive retail electric services as a Meter Reading Service Provider ("MRSP") in Arizona ("Application"). In its Application, SDS proposes to provide MRSP services in all areas in the State of Arizona which the Commission has designated as open to retail electric competition.

1 On January 22, 1999, the Commission's Utilities Division Staff ("Staff") filed its Staff Re
2 in this matter, recommending approval of the Application following a hearing.

3 By Procedural Order dated January 26, 1999, all the Affected Utilities as defined by the Retail
4 Electric Competition Rules¹ were joined as parties in this matter with the opportunity to respond to
5 SDS' Application, and were given notice that if the Application is granted, the Certificates of
6 Convenience and Necessity ("Certificates" or "CC&Ns") of the Affected Utilities would have to be
7 rescinded, altered, or amended pursuant to A.R.S. §40-252. Those parties so joined and noticed
8 include Tucson Electric Power Company, Arizona Public Service Company, Citizens Utilities
9 Company, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric
10 Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs
11 Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and
12 Morenci Water and Electric Company, and are referred to collectively herein as "Affected Utilities."

13 Other parties who requested and were granted intervention in this matter include NEV
14 Southwest, L.L.C. ("NEV"), Cyprus Climax Metals Company ("Cyprus"), ASARCO Incorpor
15 ("ASARCO"), and Enron Corp. ("Enron").

16 This matter came before a duly authorized Hearing Officer of the Commission at the
17 Commission's offices in Phoenix, Arizona on April 7, 1999. Applicant and Staff presented evidence
18 at the hearing. At the conclusion of the hearing, the matter was taken under advisement pending
19 submission of a Recommended Opinion and Order to the Commission.

20 * * * * *

21 Having considered the entire record herein and being fully advised in the premises, the
22 Commission finds, concludes, and orders that:

23 FINDINGS OF FACT

24 1. On December 22, 1998, SDS filed its Application requesting certification as an
25 Electric Service Provider ("ESP") with authority to provide competitive retail electric service as an

26 ¹ A.A.C. R14-2-1601 *et seq.*, which were stayed on the date the January 26, 1999 Procedural Order was issued. Decision
27 No. 61311 (January 11, 1999) stayed the effectiveness of the Retail Electric Competition Rules. Pursuant to Dec
28 61634 (April 23, 1999), Staff has forwarded new Proposed Retail Electric Competition Rules ("Proposed Rules") to
Office of the Secretary of State for Notice of Proposed Rulemaking. Sections 1601 of both the stayed Rules and the
Proposed Rules define the same entities as "Affected Utilities."

1 MRSP in all areas of the State of Arizona which the Commission has designated as open to retail
2 electric competition.

3 2. SDS is a Delaware Limited Liability Company that is jointly owned by Itron, Inc.
4 ("Itron"), and UK Data Collection Services, Ltd. ("UK Data"), each of which owns a fifty percent
5 share of SDS.

6 3. On January 22, 1999, Staff filed its Staff Report in this matter, recommending that
7 SDS be granted a CC&N as an ESP with authority to provide competitive retail MRSP services
8 statewide, with the exception of those areas designated as closed to competition until the Commission
9 has determined otherwise.

10 4. By Procedural Order dated January 26, 1999, the Affected Utilities were joined as
11 parties in this matter with the opportunity to respond to the Application, and were given notice that if
12 the Application is granted, the CC&Ns of the Affected Utilities will be rescinded, altered, or
13 amended pursuant to A.R.S. §40-252.

14 5. Other parties who requested and were granted intervention in this matter include NEV,
15 Cyprus, ASARCO, and Enron.

16 6. SDS caused notice of the hearing in this matter to be published in the Arizona
17 Republic on February 15, 1999.

18 7. On April 7, 1999, a public hearing was held as scheduled, at which Mr. Robert
19 Neilson and Mr. Gary Moore for Applicant and Mr. Lynn J. Garrett for Staff presented evidence.

20 8. At the hearing, the parties stipulated to incorporate into the record in this proceeding
21 the testimony and cross-examination of Mr. Williamson and Mr. Shand of Commission Staff in the
22 proceedings on the application of PG&E Energy Services Corporation for a Certificate of
23 Convenience and Necessity to Supply Competitive Services as an Electric Service Provider, Docket
24 No. E-0359A-98-0389.

25 9. SDS is a registered Meter Data Management Agent ("MDMA") in California.

26 10. As a California MDMA, SDS has demonstrated technical capabilities to calculate
27 power usage from meter reads; to validate, estimate and edit that usage; to post the usage in the
28 approved format to a server; and to provide access to that server to authorized participants for

1 retrieval of the data.

2 11. SDS holds non-exclusive, non-transferable licenses to use the computer systems of
3 UK Data and Itron for its MRSP functions.

4 12. Since its creation in 1997, SDS has received asset contributions from UK Data and
5 Itron in the amount of \$800,000 cash. SDS has also received loans from UK Data and Itron totaling
6 \$2,400,000 for a term of two years at an interest rate of 8 percent per annum.

7 13. As of September 1998, SDS' total equity position was a negative \$302,989.

8 14. SDS stated that continuing loans would be available from UK Data and Itron, if
9 required, in order to keep SDS in business, and that SDS would be amenable to providing evidence of
10 the extent of the continuing financial support UK Data and Itron are willing to provide SDS.

11 15. The Application proposed maximum tariff rates of \$150 per month for data services,
12 \$5,000 per 1,000 meters per month for Load Forecasting/Load Profiling Services, and \$25.00 per
13 meter per month for Translation/Load Research Combination Services, all to be provided pursuant to
14 contract between SDS and Commission-approved ESPs.

15 16. SDS' tariff is acceptable and presented in a format consistent with competitive tariffs
16 previously approved by the Commission.

17 17. At the hearing, Staff recommended that the Application be approved subject to the
18 following conditions:

- 19 (a) Until the Commission-approved stay of the Retail Electric Competition Rules is
20 lifted, SDS shall not provide competitive retail electric services in the service areas
21 of Affected Utilities under Commission jurisdiction; but SDS shall be eligible to
22 provide competitive retail electric services in areas opened to competition by
23 HB2663;
- 24 (b) Prior to provision of any other Competitive Service not approved at this time, SDS
25 shall apply to the Commission for approval;
- 26 (c) Prior to provision of any Competitive Service, SDS shall comply with the rule
27 provisions pertaining to MRSPs in proposed A.A.C. R14-2-1612(K) and all other
28 Commission rules applicable to meter servicing;
- (d) Prior to provision of any Competitive Service, SDS shall acquire initial insur
coverage in the amount of \$25,000 to be adjusted in the future on the basis of
semi-annual reports SDS will file with the Director, Utilities Division, as required

by proposed A.A.C. R14-2-1613;

(e) Prior to provision of any Competitive Service, SDS shall acquire all relevant tax licenses from lawful taxing authorities within the State of Arizona;

(f) Prior to provision of any Competitive Service, an employee of SDS must pass a data test administered by each of the billing entities (ESPs and/or Utility Distribution Companies ("UDCs")) that SDS has contracted with. The data test should include retrieving raw meter data, performing validation, editing and estimation, and posting data to a server;² and

(g) Prior to provision of any Competitive Service, SDS shall establish a Service Acquisition Agreement with each ESP and UDC to be served and be approved by the Director, Utilities Division.

18. Staff's recommendation in Findings of Fact No. 17(g) above did not appear in the Staff Report filed January 22, 1999, but Staff stated at the hearing that such an agreement should be required in order to ensure appropriate data formatting protocol requirements between SDS, as an MRSP, and the UDCs.

19. On April 22, 1999, Arizona Public Service Company ("APS") filed post-hearing comments in regard to Staff's recommendation in Findings of Fact No. 17(g) above ("Post-Hearing Comments").

20. In its Post-Hearing Comments, APS stated that imposition of a service acquisition agreement between SDS, as an MRSP, and the UDCs is not necessary to ensure the existence of appropriate data formatting protocol requirements, and requested that the Commission not adopt Staff's recommendation in Findings of Fact No. 17(g) to require such an agreement between SDS and the UDCs.

21. On May 10, 1999, Staff filed its Response to APS' Post-Hearing Comments ("Response").

22. The Response stated that Staff did not oppose APS' proposal that the ESP, rather than the UDCs should bear the responsibility for enforcement of appropriate data formatting protocols MRSPs must follow, but recommended that if the Commission adopts APS' proposal, SDS, as an MRSP, should also be required to submit to the Utilities Division Director a copy of an authorization

² This recommendation was modified at the hearing from the original Staff recommendation appearing in the Staff Report filed January 22, 1999.

1 letter to SDS from the UDC in whose territory SDS wishes to provide service that contains
2 following statements:

- 3 (a) SDS has successfully passed a server testing and data validating, editing and
4 estimation test;
- 5 (b) SDS can only perform its services in the UDC's service territory on behalf of a
6 Load-Serving ESP that has executed an ESP Service Acquisition Agreement with
7 the UDC;
- 8 (c) SDS is authorized by the UDC to provide services in its territory under the terms
9 of the UDC's Service Acquisition Agreement with the Load-Serving ESP;
- 10 (d) The authorization is subject to SDS' continued performance under the terms of
11 applicable rules and regulations and is in accordance with the terms and conditions
12 set forth in the ESP's approved tariffs; and
- 13 (e) It is the obligation of SDS to notify the Load-Serving ESP and the UDC of
14 material changes to its capability or technology, including technological
15 enhancements to system hardware or software, so that the Load-Serving ESP and
16 the UDC may determine whether additional testing by the UDC is required.

17 23. Because data formatting protocol issues can be effectively addressed through the
18 Service Acquisition Agreement with UDCs that the Proposed Rules require, and because the Utilities
19 Division has authority, under the Proposed Rules, to approve or disapprove ESP Service Acquisition
20 Agreements with UDCs as well as each UDC's schedule governing direct access terms and
21 conditions, including data formatting protocol requirements, adoption of Staff's recommendation in
22 Findings of Fact No. 17 (g) above is not necessary.

23 24. Adoption of Staff's recommendation in Findings of Fact No. 17(f) above is not
24 necessary if Staff's recommendation in Findings of Fact No. 22(a) is adopted.

25 25. Staff's recommendation in Findings of Fact No. 22 above is reasonable and necessary.

26 26. SDS possesses the requisite technical and financial capability to provide competitive
27 MRSP services within the State of Arizona.

28 CONCLUSIONS OF LAW

1. SDS is a public service corporation within the meaning of Article XV of the Arizona
Constitution.

2. The Commission has jurisdiction over SDS and the subject matter of the Application.

1 3. Notice of the hearing was given in accordance with law.

2 4. The Arizona Legislature's enactment of House Bill 2663 and the Commission's
3 issuance of Decision Nos. 59943, 60977, 61017, and 61634 have made it clear that competition in the
4 provision of retail electric services is the public policy of Arizona.

5 5. SDS should receive a CC&N as an ESP authorized to provide MRSP services.

6 6. SDS' CC&N should be subject to the conditions recommended by Staff in Findings of
7 Fact No. 17(a-e) and Findings of Fact No. 22 above.

8 7. Rates and terms and conditions of service adopted herein are fair, reasonable and
9 consistent with the Proposed Rules and with the underlying policies of the Arizona Constitution.

10 8. The Affected Utilities received notice of the possibility of rescission, alteration or
11 amendment of their existing CC&Ns should SDS receive a CC&N to supply competitive MRSP
12 services as an ESP within the service territories of the Affected Utilities.

13 9. The Affected Utilities had an opportunity to be heard on the possibility of rescission,
14 alteration or amendment of their existing CC&Ns.

15 10. Issuance of a CC&N requires the Certificate holder to make an adequate investment
16 and to render competent and adequate service.

17 11. There was no evidence presented in this proceeding indicating that any of the Affected
18 Utilities had failed to render adequate service or had charged unreasonable rates.

19 12. SDS should file documents to be approved by the Director, Utilities Division, that
20 clarify the extent of the financial commitment SDS has received from its parent companies.

21 13. Granting SDS' Application for a CC&N to supply competitive MRSP services as an
22 ESP within the service territories of the Affected Utilities is in the public interest, because it will
23 provide a reasonable opportunity for the potential benefits of competition to develop in the State of
24 Arizona.

25 14. It is not in the public interest to rescind, alter or amend the CC&N of any Affected
26 Utility prior to final resolution of the Stranded Cost issues for that Affected Utility.

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ORDER

IT IS THEREFORE ORDERED that the application of Star Data Services, L.L.C. for an Electric Service Provider Certificate of Convenience and Necessity is hereby granted, and that Star Data Services, L.L.C. is thereby authorized to supply competitive Meter Reader Service Provider services in all areas of the State of Arizona which are opened to retail electric competition, subject to the conditions recommended by Staff in Findings of Fact No. 17(a-e) above and Findings of Fact No. 22 above.

IT IS FURTHER ORDERED that within thirty days of the date of this Decision, Star Data Services, L.L.C. shall file documents to be approved by the Director, Utilities Division, that clarify the extent of the financial commitment Star Data Services, L.L.C. has received from its parent companies.

IT IS FURTHER ORDERED that Star Data Services, L.L.C. shall not be authorized to provide Competitive Services in any certificated area of any Affected Utility until the Certificate of Convenience and Necessity of the respective Affected Utility has been amended.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 29th day of June, 1999.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
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